

# State of South Dakota

## SEVENTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2004

400J0402

### SENATE BILL NO. 58

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the handling of  
2 inmate accounts and property to deceased, discharged, and escaped inmates.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-5-5 be amended to read as follows:

5 24-5-5. If ~~an~~ any inmate of the penitentiary dies ~~without any known heirs~~, is discharged, or  
6 escapes, leaving at the penitentiary ~~cash~~ funds in the inmate's institutional account or other  
7 tangible personal property of value, the warden shall ~~have such cash or property proceeds~~  
8 ~~deposited in a special account, subject to refund. This fund is designated as the "deceased,~~  
9 ~~discharged, and escaped account." This fund shall be used for the sole purpose of benefitting~~  
10 ~~the penitentiary, subject to refund within four years to any creditor, dependent, or heir who~~  
11 ~~establishes his right to the fund or any portion thereof. The attorney general, upon being~~  
12 ~~satisfied that a claim by a creditor, dependent, or heir is legal and valid, shall so certify to the~~  
13 ~~warden, and the warden shall authorize that the refund be paid out of the fund~~ apply these funds  
14 towards the inmate's obligations as provided for in § 24-2-29. At the warden's discretion,  
15 tangible personal property of value may be sold, donated to charity, discarded, returned to an  
16 heir, or used for the benefit of the penitentiary. If the funds exceed the inmate's obligations as



1 provided for in § 24-2-29, the excess balance shall be given back to the inmate or an heir of the  
2 inmate. Otherwise, the excess balance shall be deposited in the state general fund.

3 Section 2. That § 24-5-6 be amended to read as follows:

4 24-5-6. If ~~an~~ any inmate of the state penitentiary dies or is discharged from the penitentiary  
5 with a negative balance in ~~his inmate spending~~ the inmate's institutional account, the warden  
6 may close out that account. ~~In the case of a deceased inmate, the account shall be closed within~~  
7 ~~thirty days of his death. In the case of a discharged inmate, the account shall remain in an~~  
8 ~~inactive status for four years. If after four years the discharged inmate has not been~~  
9 ~~reincarcerated at the state penitentiary, the inactive account shall be closed. If the discharged~~  
10 ~~inmate is reincarcerated at the penitentiary within four years from his discharge, all money owed~~  
11 ~~to the inactive inmate spending account will be debited against his current spending account at~~  
12 ~~the penitentiary.~~